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BRENDA POMERANCE
260 WEST 52 STREET
APT 27B
NEW YORK, NY 10019

EXAMINER

HAYES, JOHN W

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| ART UNIT | PAPER NUMBER |
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3621

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/543,049

Applicant(s)

POMERANCE, BRENDA

Examiner

John W Hayes

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-63 and 82-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-63 and 82-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Applicant has previously canceled claims 1-45. Applicant has canceled claims 64-81, amended claim 46 and added new claims 85-89 in the amendment filed 07 October 2002.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 October 2002 has been entered.

Response to Arguments

3. Applicant's arguments filed 07 October 2002 have been fully considered but they are not persuasive.

4. With respect to claim 46, applicant argues that Sloo teaches that the complainer is anonymous, whereas claim 46 requires an identified complainer. Examiner submits that Sloo teaches an added benefit that enables the parties to a dispute to remain anonymous so that members of the public and also the complainees cannot determine the identity of the complainer, however, this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Furthermore, although Sloo teaches that the communications between the complainer and complainees are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art to provide complainer identifying information to the complainees in the event that the parties have no desire to remain anonymous. For

Art Unit: 3621

example, the previously cited reference "Online Mediation Offered for Resolving E-Commerce Disputes" discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous.

Also, applicant indicates that claim 46 has been amended and calls for the complaint to be prepared based on information received from the complainer, including any additional information responsive to the data previously received from the complaine. Examiner respectfully submits that this amendment does not overcome the previous rejection. The claim recites "automatically preparing the complaint based on the information and any additional information received from the complainer". Examiner submits, first of all, that it is not clear what is meant by the recitation "the information" in the above claim limitation. This limitation seems to suggest that "the information" is related only to the information received from the complainer. It is the examiner's contention, after interpreting the amended claim, that the complaint to be prepared is based upon information received from the complainer including any additional information, which appears to be unrelated to any information provided to the complainer by the complaine. Therefore, examiner is maintaining the previous rejection of claim 46 and is provided below for applicant's convenience.

5. With respect to claim 55, applicant asserts that Sloo does not teach including the emotional state of the complainer. Examiner agrees with this characterization of Sloo, however, has cited an additional reference in addition to the "Online Resolution" that supports why it would have been obvious to include emotional state information when handling disputes.

Furthermore, examiner has reviewed applicant's citation of *Arrhythmia Research Technology v. Corazonix Corp* and has found that this citation does not appear to apply to the current rejection of claim 55, since the matter to be resolved in *Arrhythmia Research Technology v. Corazonix Corp.* related to whether or not the claims were directed to a mathematical algorithm and whether the claims met the

Art Unit: 3621

statutory requirements of 35 U.S.C 101. Neither the rejection of claim 46 nor 55 are based upon the assertion that the claims relate to a mathematical algorithm and are therefore non statutory under 35 U.S.C. 101, but rather the assertion that the claims are not patentable under 35 U.S.C. 103. Examiner notes, however, that a new rejection is introduced in this office action which indicates that the claims are non-statutory under 35 U.S.C. 101 since the claims do not apply, involve, use, or advance the technological arts.

Drawings

6. The corrected or substitute drawings were received on 05 March 2002. These drawings are approved by the drafts person.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 46 recites the limitation "if any" in line 5. It is unclear to the examiner whether or not additional information is actually received and examiner submits that this language is vague and indefinite. Also, claim 46 recites the limitation "based on the information" in line 7 of the claim. It is unclear to the examiner which "information" applicant is referring to such as "information received from the complainant", "information identifying the complainant" or "additional information". For purposes of the prior art rejections below, examiner assumes "the information" is referring to the information received from a complainant.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 3621

10. Claims 46-63 and 82-89 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 46-63 and 82-89 only recite an abstract idea. The recited steps of automatically receiving data, providing data, preparing a complaint, presenting the complaint for approval and forwarding the approved complaint does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The steps of the claim are preceded by the word "automatically", however, this is not a clear distinction that this means the steps are being carried out by a processor device. The dictionary defines the word "automatically" as "largely or wholly involuntary" or "acting or done spontaneously or unconsciously" and this does not necessarily indicate that the steps recited in the claims are being carried by technology such as a computer processor.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. An invention, which is eligible or patenting under 35 U.S.C. 101, is in the "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The fundamental test for patent eligibility is thus to determine whether the claimed invention produces a "use, concrete and tangible result". The test for practical application as applied by the examiner involves the determination of the following factors"

Art Unit: 3621

- (a) "Useful" – The Supreme Court in *Diamond v. Diehr* requires that the examiner look at the claimed invention as a whole and compare any asserted utility with the claimed invention to determine whether the asserted utility is accomplished. Applying utility case law the examiner will note that:
- i. the utility need not be expressly recited in the claims, rather it may be inferred.
 - ii. if the utility is not asserted in the written description, then it must be well established.
- (b) "Tangible" – Applying *In re Warmerdam*, 33 F.3d 1354, 31 USPQ2d 1754 (Fed. Cir. 1994), the examiner will determine whether there is simply a mathematical construct claimed, such as a disembodied data structure and method of making it. If so, the claim involves no more than a manipulation of an abstract idea and therefore, is nonstatutory under 35 U.S.C. 101. In *Warmerdam* the abstract idea of a data structure became capable of producing a useful result when it was fixed in a tangible medium, which enabled its functionality to be realized.
- (c) "Concrete" – Another consideration is whether the invention produces a "concrete" result. Usually, this question arises when a result cannot be assured. An appropriate rejection under 35 U.S.C. 101 should be accompanied by a lack of enablement rejection, because the invention cannot operate as intended without undue experimentation.

In the present case, the claimed invention produces a complaint based upon information provided by a complainer (i.e., repeatable) and forwards the complaint to a complaine (i.e., useful and tangible). Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 46-63 and 82-89 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3621

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of "Online Mediation Offered for Resolving E-Commerce Disputes", Press Release, Online Resolution, 23 March 2000 [hereinafter referred to as Online Resolution].

As per **Claims 46 and 50**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving information from a complainer including information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53)
- automatically providing data to the complainer (Col. 4, lines 45-50; Col. 10, lines 47-53, Col. 11, lines 21-25)
- automatically receiving additional information from the complainer after providing the data to the complainer (Col. 4, line 63-Col. 5 line 2; Col. 5, lines 21-29)
- automatically preparing the complaint based on the information and any additional information received from the complainer (Col. 5, lines 3-11 and 21-29)
- automatically presenting the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding the approved complaint to the complaine (Col. 5, lines 37-46).

Sloo does not expressly disclose that the data provided to the complainer is previously received from a complaine or that it relates to a complaint handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of simply receiving data from a complaine and providing the data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The only functional step recited in the claim relates to preparing the complaint based on

Art Unit: 3621

information provided by the complainer since the data provided by the complainer is functionally involved in the preparation of the complaint. In other words, a process takes place to specifically act upon the data provided by the complainer in order to prepare a complaint. This functional step, however, is taught by Sloo as discussed above. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complaineo any type of data and provide the data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Sloo also fails to explicitly disclose that the complaint forwarded to the complaineo includes information identifying the complainer. Sloo does teach, however, an added benefit that enables the parties to a dispute to remain anonymous so that members of the public and also the complaineos cannot determine the identity of the complainer, however, this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Although Sloo teaches that the communications between the complainer and complaineo are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art to provide complainer identifying information to the complaineo in the event that the parties have no desire to remain anonymous. For example, Online Resolution discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous.

As per **Claim 48**, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain

Art Unit: 3621

contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complainee. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complainee. Sloo provides motivation by indicating that this would give the complainee the option of accepting or refusing the offer in an effort to settle the dispute.

As per Claim 52, Sloo further discloses providing a response from the complainee to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per Claim 53, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per Claim 54, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

13. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Online Resolution as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

As per Claim 47, Sloo discloses a method of facilitating dispute resolution between a complainer and a complainee and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an

Art Unit: 3621

automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

As per **Claim 55**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving information from a complainer including information describing the complaint and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53)

Art Unit: 3621

- automatically preparing the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically presenting the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding the approved complaint to the complainee (Col. 5, lines 37-46).

Sloo discloses a method of facilitating dispute resolution between a complainer and a complainee and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complainee to get a better understanding of the

Art Unit: 3621

complainers state of feeling and would enable the complainee to more effectively respond to the complaint.

As per **Claim 56 and 57**, Sloo and Online Resolution fail to expressly disclose that the data provided to the complainer is previously received from a complainee or that it relates to a complaint handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of receiving data and providing data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complainee or any other source any type of data and providing the data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claim 58**, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complainee. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complainee. Sloo provides motivation

Art Unit: 3621

by indicating that this would give the complainee the option of accepting or refusing the offer in an effort to settle the dispute.

As per **Claim 61**, Sloo further discloses providing a response from the complainee to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per **Claim 62**, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per **Claim 63**, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

14. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per **Claims 49**, Sloo discloses a method of preparing and processing a complaint, however, fails to expressly disclose wherein the prepared complaint includes statements in the first person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics,

Art Unit: 3621

team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

15. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

As per Claim 51, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

16. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per Claim 59, Sloo discloses a method of preparing and processing a complaint as discussed above, however, fail to expressly disclose wherein the prepared complaint includes statements in the first person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-

Art Unit: 3621

person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics, team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

17. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above, and further in view of McFarland, U.S. Patent No. 6,154,753.

As per Claim 60, Sloo disclose a method for dispute resolution, however, fail to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complainee.

18. Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Thiessen, U.S. Patent No. 5,495,412.

As per Claim 85, Sloo discloses a method of processing a complaint comprising:

Art Unit: 3621

- automatically receiving information from a complainer including information relating to a problem experienced by the complainer and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53)
- automatically preparing the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically presenting the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding the approved complaint to the complainee (Col. 5, lines 37-46).

Sloo, however, fails to specifically disclose automatically suggesting a remedy and receiving a response to the suggested remedy. Thiessen discloses a computer-based method for interactive computer-assisted negotiations and teaches automatically suggesting solutions or remedies to parties of a dispute (Col. 3, lines 30-39 and 50-55; Col. 4, lines 54-60; Col. 5, lines 53-60) and receiving a response to the suggested solution (Col. 4, lines 55-60; Col. 5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to suggest a remedy to a party of a dispute as disclosed by Thiessen. Thiessen provides motivation by indicating that making suggestions or proposed solutions would provide an alternative that all parties of a conflict could consider and might find acceptable (Col. 1, lines 25-41) or may significantly help in the quest for agreement.

As per **Claim 88**, Sloo further discloses providing a response from the complainee to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per **Claim 89**, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

Art Unit: 3621

19. Claim 86 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

As per **Claim 86**, Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

Art Unit: 3621

20. Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

As per **Claim 87**, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zacher, Annette discloses that emotional factors may be the key ingredient to keeping customers and profiting in the changing high tech world.

22. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hurd discloses a system and method for tracking issues and assigning the issue to the appropriate personnel.
- Burchetta et al disclose a computerized system for automated dispute resolution via the Internet or other communications linkage

Art Unit: 3621

- Bereiter et al disclose a method for automated problem resolution and teach rules for determining which group or person should handle the problem.
- Thiessen discloses a system with graphical interfaces that are used by each party involved in the negotiation process to input information pertaining to their individual preferences on each issue to be negotiated and the system encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable
- Griffeth et al disclose a method wherein an agent generates a proposal acceptable to it and transmits the proposal to another agent. If the receiving agent determines if the proposal is acceptable and if not generates a counterproposal and the process continues until a proposal acceptable to both parties is found
- Rosen discloses a method for electronic merchandise dispute resolution wherein trusted agents are used to resolve disputes
- Wamsley et al disclose a personal injury claim management system and teach the use of an alternative dispute resolution process when there is difficulty in settling a claim
- Kesel discloses an apparatus for collecting, analyzing and reporting information on goods and services offered for sale to customers by providers
- "SquareTrade Launches New Consumer Protection Tool; First Online Dispute Resolution Pilot on eBay" discloses a structured and unbiased multi-step process to guide disputing parties to a resolution, which is conducted completely online and wherein a mediator is assigned to work with the two parties to develop a fair, agreeable settlement
- Dennehy, "New Online Mediation Service" discloses an online mediation service wherein users visit a web site to fill out a form describing their dispute and the site contacts the other party to see if they are willing to participate in mediation. If both sides agree, a mediator is assigned to help the parties reach an agreement.

Art Unit: 3621

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks
Washington D.C. 20231***

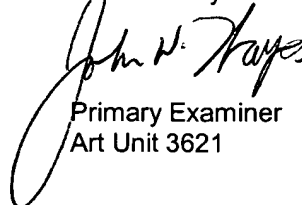
or faxed to:

(703)305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-5531 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,
VA, 7th floor receptionist.

John W. Hayes



Primary Examiner
Art Unit 3621

February 19, 2003